

IN THE SUPREME COURT OF FLORIDA

IN RE: AMENDMENTS TO
FLORIDA RULE OF
CRIMINAL PROCEDURE 3.790

CASE NO. SC05-2381

CRIMINAL PROCEDURE RULES COMMITTEE'S
RESPONSE TO COURT'S ORDER DATED JANUARY 23, 2007

On January 23, 2007, the court entered an order tentatively approving amendments to rule 3.790, Florida Rules of Criminal Procedure. The order indicates that the wording proposed by the committee in this case will be approved with the exception of one change made by the court to ensure that the rule accurately follows the wording and intent of section 948.06, Florida Statutes. The order directs the committee to review the court's change and to provide a response by February 22, 2007.

Through its fast track procedure, the committee has considered the January 23, 2007, order and approves the change made by the court. The committee agrees with the court that the court's proposed wording removes an ambiguity that existed in the committee's original proposal. By email vote, the committee voted 20 to 1 in favor of the change. The one dissenting member stated "I do not agree . . . I like the way the committee used "whether" versus the court having to decide an arrestee is not a danger to the community. I think any judge is going to be hard pressed to say someone is not a danger as opposed to making the decision from a clean slate."

This response is submitted on behalf of the Florida Criminal Procedure Rules Committee on February 22, 2007, by

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